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July 20, 2015

Via ECF and First Class Mail

The Honorable Lorna G. Schofield
United States District Judge for the
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: *Thind v. Healthfirst, Inc., Civil Action No.14-CV-09539(LGS)*

Dear Judge Schofield:

We are counsel for Plaintiff in the above referenced matter. We write in response to Defendant's letter, dated July 17, 2015 (Docket No. 47), submitting supplemental authority in support of its Partial Motion to Dismiss the Amended Complaint, without obtaining leave of court, with respect to Plaintiff's minimum wage claims asserted under the Fair Labor Standards Act and New York Labor Law.

In the event that the Court considers the new decision that Defendant submits, Plaintiff notes that this decision by Judge Kenneth Karas, *Cruz v. AAA Carting and Rubbish Removal, Inc.*, Civ. No. 7:13-cv-08498 (KMK), slip op. (S.D.N.Y. July 16, 2015), was written without the benefit of briefing on Judge Colleen McMahon's opinion in *Benitez v. Demco of Riverdale, LLC*, 2015 WL 803069, (S.D.N.Y. Feb. 19, 2015), which was issued after all motion papers in *Cruz* had been submitted. A copy of the *Benitez* decision is attached as Exhibit A herewith. As Your Honor will note, in *Benitez*, Judge McMahon denied defendants' motion for summary judgment on precisely the sort of minimum wage claims that Plaintiffs assert in the instant case, and adopted the very argument that Plaintiff propounds in this matter in support of those claims. *Benitez*, 2015 WL 803069, at *2. Accordingly, to the extent that the Court considers the *Cruz* decision in determining the instant matter, Plaintiffs respectfully request that the Court consider the *Benitez* decision as well. Had *Benitez* been cited to the *Cruz* court for consideration, it seems likely that Judge Karas would have either followed it or at least attempted to distinguish it.

Plaintiff thanks the Court for its consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Sam Veytsman", is written over a horizontal line.

Samuel Veytsman, Esq.

For the Firm

Enclosure